



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES  
ATTORNEY GENERAL

DIVISION OF STATE COUNSEL  
LITIGATION BUREAU

**BY ECF AND E-MAIL**

May 18, 2021

The Honorable Colleen McMahon  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

RE: The Clementine Co. LLC, et al. v. Cuomo, et al., No. 20-cv-8899

Dear Judge McMahon:

This Office represents Defendants Andrew M. Cuomo, in his official capacity as Governor of the State of New York, Letitia James, in her official capacity as Attorney General of the State of New York, and the State of New York (“State Defendants”). We write to request that the time for State Defendants to respond to Plaintiffs’ motion for leave to amend the complaint (ECF No. 73) be extended from Wednesday, May 19, 2021, to Monday, May 24, 2021. This is State Defendants’ first request to extend the time to respond to Plaintiffs’ motion for leave to amend the complaint.

As the Court is aware, State Defendants oppose Plaintiffs’ motion for leave to amend on the ground that recent changes to the restrictions applicable to Plaintiffs’ theaters will render this case moot, and that therefore amendment would be futile. In the past several days, there have been further developments regarding the lifting of COVID-19-related restrictions that may bear on Plaintiffs’ motion and State Defendants’ response to it. Yesterday, May 17, 2021, Governor Cuomo announced that the State would be adopting the CDC’s recently updated recommendation regarding the necessity of mask-wearing and social distancing for vaccinated people, and issued Executive Order 202.108, directing that the CDC recommendation be adopted.<sup>1</sup> These revised guidelines will affect multiple industries and activities. Formal guidance is currently being developed based on the new CDC recommendations.

As this updated guidance may be relevant to Plaintiffs’ motion and State Defendants’ opposition, State Defendants ask the Court for a short extension of their time to respond to Plaintiffs’ motion for leave, to Monday, May 24, so that their briefing may accurately address the most up-to-date formal guidance applicable to Plaintiffs.

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<sup>1</sup> <https://www.governor.ny.gov/news/governor-cuomo-announces-new-york-state-adopt-new-cdc-guidance-mask-use-and-social-distancing>;  
[https://www.governor.ny.gov/sites/default/files/2021-05/EO\\_202\\_108.pdf](https://www.governor.ny.gov/sites/default/files/2021-05/EO_202_108.pdf)

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Plaintiffs have been consulted about this request, and take no position. Defendant Mayor de Blasio consents to this request, and asks that he be permitted to file his response on the same schedule as the State Defendants.

State Defendants appreciate the Court's attention to this matter.

Respectfully submitted,

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cc: Counsel of record (by ECF)